

**IN THE COURT OF COMMON PLEAS
DIVISION OF PROBATE
LAKE COUNTY, OHIO**

IN RE:)	
)	DOCKET 8 PAGE 314
LOCAL RULE 74)	
)	<u>JUDGMENT ENTRY</u>
)	

Pursuant to Sup.R. 75 and for good cause shown, to-wit: The expeditious, orderly and fair operation of the court, **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that Local Rule 74 of the Rules of Probate Court of Lake County, Ohio, adopted May 7, 2007, is repealed and replaced with the following amendment:

LAKE COUNTY RULE 74. Trustee's Compensation.

- (A) Except where the instrument creating the trust makes provision for compensation, a testamentary trustee may charge annually for ordinary services performed by the trustee in connection with the administration of each separate trust estate as follows:
- (1) An amount to be computed on the fair market value of the principal of the trust property in accordance with the following schedule, such compensation to be charged one-half to income and one-half to principal, unless otherwise provided in the instrument creating the trust:

\$11.00 per \$1,000 on the first \$200,000 of the fair market value of the principal;
\$9.00 per \$1,000 on the next \$800,000 of the fair market value of the principal;
and
\$5.50 per \$1,000 on all amounts over \$1,000,000 of the fair market value of the principal.
 - (2) An amount may be allowed equal to 1% of the fair market value of any distribution or payment from the principal of the trust property. This amount shall be charged against and deducted from the distribution or payment.
 - (3) A corporate trustee that provides a service that invests all available income and/or principal cash on a daily basis may be allowed an amount equal to one-half of one percent (0.5%), on an annual basis, of the amount invested, but not in excess of \$100 per month.

- (4) A separate fee, based on time expended, may be charged for the preparation and filing of fiduciary income tax returns. Said fee shall not exceed \$500.00, except for good cause shown.
- (B) For the purpose of computing the trustee's compensation as herein provided, the fair market value of the principal of the trust property shall be determined by the trustee as of the date of the original receipt of trust property, and each anniversary date thereafter. At the option of the trustee, fee evaluations may be made on a quarterly basis, each evaluation to be coordinated with the original annual date as selected by the trustee. If the trustee selects this option, the trustee must continue to compute the trustee's fee on the quarterly valuation basis, unless upon application to the court, a change in fee valuation method is allowed.
- (C) An application for allowance of ordinary and extraordinary trustee's compensation shall be submitted to the court for approval with the annual trustee's account. The application required by Sup.R. 74(B) for the payment of extraordinary fees shall set forth an itemized statement of the services performed, the date services were performed, the time spent in rendering the services, and the rate charged per hour. The court may require that the application be set for hearing with notice given to interested parties in accordance with Civ.R. 73(E). Trustee's compensation of an ordinary or extraordinary nature shall not be paid from the trust estate until the application has been approved by judgment entry.
- (D) The compensation of co-trustees in the aggregate shall not exceed the compensation that would have been payable if only one trustee had been acting, except in the following instances:
- (1) where the instrument under which the co-trustees are acting provides otherwise; or
 - (2) where all the interested parties have consented in writing to the amount of the co-trustees' compensation and the consent is endorsed on the trustees' account or evidenced by separate instrument filed contemporaneously.
- (E) A separate schedule of the computation of trustee's compensation shall be shown in the trustee's account as a condition of its approval.
- (F) Except for good cause shown, neither compensation for a trustee nor fees to the counsel representing the trustee will be allowed as long as the trustee is delinquent in filing an account required by R.C. 2109.30

IT IS SO ORDERED.

JUDGE TED KLAMMER